IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.475 (MS) OF 2006

1. Kabul Chandra,
2. Ram Kishan Both S/o Sri Jumma Ram,
   R/o Village-Dheemari, Tehsil-Gadarpur,
   District – Udham Singh Nagar. ....Petitioners.

Versus

1. State of Uttaranchal, through Collector, Udham Singh Nagar.
2. Commissioner, Kumaun Division, Nainital.
3. Ramesh Chandra, S/o Sri Hansh Raj,
   R/o Village Dheemari Block, Tehsil-Gadarpur,
   District –Udham Singh Nagar. .....Respondents.

Mr. M.C. Kandpal, Sr. Advocate, assisted by Sri Kurban Ali, Advocate for the petitioner.
Learned Standing Counsel for the respondents no.1 and 2.

Dated: 04.05.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the order dated 01.03.2006 passed in Revision No. 120 of 2004-05 passed by Commissioner, Kumaun Mandal Nainital (Annexure No. 6 to the writ petition).

2. Briefly stated, the petitioners are the Bhumidhar of the plot no. 201 k, area 0.193 Hectare, plot no. 201 kha area 0.607 hectare, plot no. 203 are 0.006 hectare, plot no. 204 area 0.404 hectare, plot no. 205 area 0.120 hectare, plot no. 206 k area 0.387 hectare, plot no. 206 kha area 0.300 Hectare, plot no. 207 area 0.100 hectare, plot no. 209 k area 0.240 hectare

plot no. 221 gha area 0.202 hectare, total area 2.559 hectare situated in Village Dheemari Block, Tehsil Gadarpur, District Udham Singh Nagar.

On 23rd March, 1998, Survey Naib Tehsildar, Gadarpur, Udham Singh Nagar decided the case as Survey Form No. 6 and recorded the name of the respondent no. 3 on the basis of mutual compromise. The said order was challenged in Revision No. 52/43 of 2002-03 filed by the State before the Additional District Magistrate and thereafter, fresh order was passed on 19.05.2004 allowing the revision.

Aggrieved by the said order respondent no. 3 filed a revision before the Commissioner, Kumaun Mandal Nainital as Revision No. 120 of 2005, which was allowed on the ground that the respondent no. 3 has not been heard.

I do not find any illegality in the order passed by the revisional Court while remanding the matter for fresh hearing after hearing the respondent no.3.

However, since the matter has already been remanded, the order dated 1st March, 2006 is modified to the extent that the parties are directed to maintain status quo until fresh order is passed by the ADM, Nazool,

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

04.05.2006
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